



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

July 14, 2005

Mr. Fred Ellingsworth
8265 Willow Grove Road
Wyoming, DE 19934

RE: PLUS review – PLUS 2005-06-14, Ellingsworth Property

Dear Mr. Ellingsworth,

Thank you for meeting with State agency planners on June 29, 2005 to discuss the proposed rezoning of your property at 2140 S. State Street in Kent County. According to the information received, you are seeking a rezoning from RS1 to BN for use as a tanning salon.

These comments reflect only issues that are the responsibility of the agencies represented at the meeting. You will also need to comply with any Federal, State and local regulations regarding this property. Kent County is the governing authority over this land and you will need to comply with any and all regulations/restrictions set forth by the County.

Office of State Planning Coordination – Contact David Edgell 739-3090

The rezoning of this property is at the discretion of Kent County Levy Court. Should the Levy Court ultimately choose to grant this rezoning request, a comprehensive plan amendment will be required. This rezoning is located in Investment Level 1 according to the *Strategies for State Policies and Spending*. This site is also located in the Kent County Growth Zone. Investment Level 1 reflects areas that are already developed in an urban or suburban fashion, where infrastructure is existing or readily available, and where future redevelopment or infill projects are expected and encouraged by State policy. Our office has no objections to the proposed rezoning in accordance with the relevant County codes and ordinances.

State Historic Preservation Office (SHPO) – Contact Alice Guerrant 739-5685

SHPO is not opposed to this rezoning. No historic properties are known on the site and no historic houses have a view to it. There is medium potential for a prehistoric-period

archaeological site to the rear of the site. If a storm water management pond is developed, SHPO requests the opportunity to check for archaeological sites before any construction takes place.

Department of Transportation – Contact Bill Brockenbrough 760-2109

Fred Ellingsworth seeks to have a 1.6749 parcel (Tax Parcel NM-095.06-02-23.00) rezoned from RS1 to BN in Kent County. The subject land is located on southbound US Route 113A (South State Street) about 400 feet south of Delaware Route 10, behind the Moores Lake Plaza shopping center. There is a residence on the property and Mr. Ellingsworth seeks to reuse the building as a tanning salon.

- 1) South State Street is classified as a minor arterial road. Right-of-way widths on minor arterial roads in Delaware vary but DelDOT's policy is to require dedication of sufficient land to provide a minimum right-of-way width of 40 feet from the centerline. Therefore right-of-way dedication will be required along the frontage to provide any additional width needed from this project.
- 2) Presently, South State Street is extremely congested during peak hours. At the Route 10 intersection, the northbound queue frequently extends well south of the subject property. Recognizing the problem, DelDOT began a study of the South State Street corridor from Little Heaven to Route 10 to better define the causes and extent of the problem and develop a set of improvements that could be implemented over time as land development in the corridor continues. That study is in its final stages, with its last public workshop scheduled for September of this year. It is anticipated that the study will recommend a range of short-term, intermediate and long-term improvements. Allowing time for design and construction, the short-term improvements could be in place as soon as 2010. More information on the study is available from DelDOT's project manager, Mr. Bruce Allen, at (302) 760-2135.
- 3) On March 17, 2003, DelDOT issued Land Use Planning Act (LUPA) comments on an application from Mr. Ellingsworth to rezone this same parcel to BG. At that time, a County traffic impact study (TIS) was recommended prior to acting on the application. A significant factor in the recommendation was the fact that the parcel could, and in all probability would have access directly onto South State Street. Because of the peak hour congestion mentioned above, the effect of traffic in and out of this parcel, especially left turn traffic, would be much greater than a similar volume of traffic would be at a different location.

Recently, through the County, DelDOT received a similar inquiry with regard to the subject application. In the accompanying materials, Mr. Ellingsworth indicated that there would be access through the Moores Lake Plaza shopping center. At the meeting, Mr. Ellingsworth indicated that he has arranged for the parcel to have access through the shopping center and has prohibited, or agreed to prohibit, direct access onto South State Street. That would affect the need for a TIS and DelDOT asks that he provide documentation in this regard. If that is not

the case, then DelDOT anticipates recommending that the County require a TIS for this application as well.

- 4) If the proposed rezoning is approved, Mr. Ellingsworth's site engineer should contact the project manager for Kent County, Mr. Brad Herb, (302) 266-9600, regarding specific requirements for access.

At the meeting, Mr. Ellingsworth asked whether temporary access would be permitted on South State Street while a proposed Royal Farms store is being added to the shopping center. DelDOT will want the development of the two properties coordinated to minimize the amount of time that the temporary access would be needed. Mr. Ellingsworth should contact Mr. Herb in this regard.

The Department of Natural Resources and Environmental Control

Contact Kevin Coyle 739-3091

Impervious Surfaces

No mention of the projected surface imperviousness was indicated in the submitted application. Since commercial construction projects often generate large amounts of impervious cover - often leading to large volumes of contaminant-laden runoff which ultimately drains into streams or waterways - the applicant is strongly urged to pursue both natural and constructed Best Management Practices (BMPs) that reduce such impacts. Reducing the amount of impervious surfaces and/or using pervious pavers in lieu of asphalt or concrete, are ways to reduce such impacts. Research has consistently shown that once a watershed exceeds a threshold of 10 percent imperviousness, water and habitat quality irreversibly decline.

TMDLs

Although Total Maximum Daily Loads (TMDLs) as a "pollution runoff mitigation strategy" to reduce nutrient loading have not yet been developed for the St. Jones subwatershed to date, work is continuing on their development. A TMDL is the maximum level of pollution allowed for a given pollutant below which a "water quality limited water body" can assimilate and still meet water quality standards to the extent necessary to support use goals such as, swimming, fishing, drinking water and shell fish harvesting. Although TMDLs are authorized under federal code, states are charged with developing and implementing standards to support those desired use goals. The Jurisdictional authority for attaining these use goals will fall under the auspices of Section 11.5 of the State of Delaware's Surface Water Quality Standards (as amended August 11, 1999), and will be achieved via nutrient reductions referred to as "pollution control strategies." TMDLs for the St. Jones River subwatershed, of which this parcel is part, are scheduled for completion in December 2006.

Therefore, until the specified TMDL reductions and pollution control strategies are adopted, it shall be incumbent upon the developer to employ best available technologies (BATs) and/or best management practices (BMPs) as "methodological mitigative strategies" to reduce degradative impacts associated with development.

Water Supply

The project information sheets state that an individual on-site well will be used to provide water for the proposed project. Our records indicate that the project is located within the public water service area granted to Tidewater Utilities under Certificate of Public Convenience and Necessity number PSC-1190. I recommend that the developer contact Tidewater Utilities to determine the availability of public water. Any questions concerning CPCNs should be directed to the Public Service Commission at 302-739-4247. The Division of Water Resources will consider applications for the construction of on-site wells provided the wells can be constructed and located in compliance with all requirements of the Regulations Governing the Construction and Use of Wells. In this case, a minimum isolation distance of 150 feet is required between the well and any potential source of contamination, such as a septic tank and sewage disposal area. A well construction permit must be obtained prior to constructing any well(s).

Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the Water Supply Section prior to construction of the well points. In addition, a water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation.

All well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Please factor in the necessary time for processing the well permit applications into the construction schedule. Dewatering well permit applications typically take approximately four weeks to process, which allows the necessary time for technical review and advertising.

Potential Contamination Sources do exist in the area, and any well permit applications will undergo a detailed review that may increase turnaround time and may require site specific conditions/recommendations. In this case, a Shore Stop #57 is located approximately 450 feet from this project location. For questions concerning these comments, please contact Rick Rios at 302-739-9944.

Wastewater Treatment and Disposal System

If the applicant plans to use the existing system the County may require an Authorization to Use an Existing System Permit from the Ground Water Discharges Section (GWDS). The plot plan supplied by the applicant fails to show the existing system therefore, the GWDS cannot comment on the system at this time and a quick search of our database using the tax parcel number provided on the application indicated no existing records as of 1987. The applicant should contact the GWDS, Small Systems Branch, Dover Office, at (302) 739-9947 for information regarding permitting of an individual on-site wastewater treatment and disposal system.

Drainage

The Drainage Section requests that all precautions be taken to ensure the project does not hinder any off site drainage upstream of the project or create any off site drainage problems downstream by the release of on site storm water.

Underground Storage Tanks

There is one inactive LUST site(s) located near the proposed project:

Shore Stop #57, Facility # 1-000262, Project # K9603051

No environmental impact is expected from the above inactive/active LUST site(s). However, should any underground storage tank or petroleum contaminated soil be discovered during construction, the Tank Management Branch must be notified as soon as possible. It is not anticipated that any construction specifications would be need to be changed due to petroleum contamination. However, should any unanticipated contamination be encountered and PVC pipe is being utilized, it will need to be changed to ductile steel in the contaminated areas.

State Fire Marshal's Office – Contact John Rossiter 739-4394

These comments are intended for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal's Office. The State Fire Marshals Office has no objection to the re-zoning request. The information provided below are for when plans are being designed. At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

1) **Fire Protection Water Requirements:**

- Water distribution system capable of delivering at least 1000 gpm for 1-hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers.
- Where a water distribution system is proposed for (business) sites, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.

2) **Fire Protection Features:**

- All structures over 10,000 Sq. Ft. aggregate will require automatic sprinkler protection installed.
- Buildings greater than 10,000 sq.ft., 3-stories of more or over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements.
- Show Fire Department Connection location (Must be within 300 feet of fire hydrant), and detail as shown in the DSFPR.
- Show Fire Lanes and Sign Detail as shown in DSFPR

c. **Accessibility:**

- All premises which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. This means that the access road to the subdivision from South State Street must be constructed so fire department apparatus may negotiate it.
- Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft. of the front door.

- Any dead end road more than 300 feet in length shall be provided with a turn-around or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.
- The use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.
- The local Fire Chief, prior to any submission to our Agency, shall approve in writing the use of gates that limit fire department access into and out of the development or property.
- d. **Gas Piping and System Information**
 - Provide type of fuel proposed, and show locations of bulk containers on plan.
- e. **Required Notes:**
 - Provide a note on the final plans submitted for review to read “ All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations”
 - Proposed Use
 - Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units
 - Square footage of each structure (Total of all Floors)
 - National Fire Protection Association (NFPA) Construction Type
 - Maximum Height of Buildings (including number of stories)
 - Note indicating if building is to be sprinklered
 - Name of Water Provider
 - Letter from Water Provider approving the system layout
 - Provide Lock Box Note (as detailed in DSFPR) if Building is to be sprinklered
 - Provide Road Names, even for County Roads

Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from www.delawarestatefiremarshal.com.

Department of Agriculture - Contact: Milton Melendez 739-4811

The Delaware Department of Agriculture has no objections to the Fred Ellingsworth application. The *Strategies for State Policies and Spending* promotes growth in the location proposed by this application.

Public Service Commission – Contact Andrea Maucher 739-4247

Regarding water service, the PLUS application notes “individual (on-site).” Should public water be needed, the project is within a Tidewater Utilities Inc. certificated service

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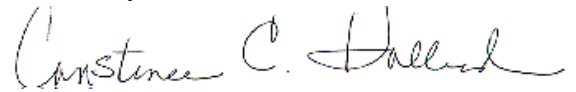
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territory. Any expansion of natural gas or installation of a closed propane system must comply with Federal Pipeline Safety guidelines.

Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.

Thank you for the opportunity to review this project. If you have any questions, please contact me at (302)739-3090.

Sincerely,

A handwritten signature in blue ink that reads "Constance C. Holland". The signature is written in a cursive style with a large, stylized "C" at the beginning.

Constance C. Holland, AICP
Director

CC: Kent County